

## WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: PUBLIC WORKS - *DPW AND PARKS, RECREATION & RAILROAD*

DATE: JULY 29, 2013

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**COMMITTEE MEMBERS PRESENT:**

SUPERVISORS BENTLEY  
MERLINO  
CONOVER  
WOOD  
TAYLOR  
FRASIER  
DICKINSON  
MASON  
MONTESI

**OTHERS PRESENT:**

JEFFERY TENNYSON, SUPERINTENDENT OF PUBLIC WORKS  
KEVIN HAJOS, DEPUTY SUPERINTENDENT OF PUBLIC WORKS  
JUSTIN GONYO, GENERAL SUPERINTENDENT, SARATOGA NORTH CREEK RAILWAY  
KEVIN GERAGHTY, CHAIRMAN OF THE BOARD  
JOANN MCKINSTRY, ASSISTANT TO THE COUNTY ADMINISTRATOR  
AMANDA ALLEN, DEPUTY CLERK OF THE BOARD  
FRANK THOMAS, BUDGET OFFICER  
SUPERVISORS KENNY  
LOEB  
STRAINER  
VANSELOW  
KATE JOHNSON, DIRECTOR, TOURISM  
MIKE SWAN, COUNTY TREASURER  
MICHAEL CONSUELO, EXECUTIVE DIRECTOR OF THE LAKE GEORGE CHAMBER OF  
COMMERCE & CVB  
BILL LAMY, PROJECT MANAGEMENT EXECUTIVE COMMITTEE MEMBER  
DON LEHMAN, *THE POST STAR*  
THOM RANDALL, *ADIRONDACK JOURNAL*  
SARAH MCLENITHAN, LEGISLATIVE OFFICE SPECIALIST

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Mr. Bentley called the meeting of the Public Works Committee to order at 9:31 a.m.

Motion was made by Mr. Conover, seconded by Mr. Mason and carried unanimously to approve the minutes of the prior Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Jeffery Tennyson, Superintendent of Public Works, who advised that in the absence of Paul Butler, Director of Parks, Recreation & Railroad, he would be providing the review of the Parks, Recreation & Railroad agenda, copies of which were distributed to the Committee members and a copy is also on file with the meeting minutes.

Mr. Tennyson advised the first agenda item called for an update on Saratoga North Creek Railway (SNCR) operations by Justin Gonyo, SNCR General Superintendent. Mr. Gonyo handed out a document outlining a "road bed washout/failure" of the railroad in Greenfield, NY to the Committee members and a copy is also on file with the meeting minutes. Mr. Gonyo then proceeded with a review of the document which outlined the recent washout and listed the estimated repair costs and operational losses which totaled \$42,007.69. He advised the washout had affected 850' of railroad right-of-way causing primarily shoulder erosion; however, he noted, there had been a couple of spots where the gauge between the rail was affected, as well. During their review, Mr. Gonyo said they had discovered a profile defect where the tracks had sunk about 3" over a 100' section, requiring a decrease in the maximum authorized speed in that area from 30 mph to 10 mph. Mr. Gonyo said SNCR had brought in about 600 tons of stone to revise the problem so that passenger operations could continue, but he noted that the rail line had been shut down for five days in order to make the repairs, affecting rail service and ridership figures for the month of July. Mr. Gonyo stated that the damages had occurred over the Fourth of July holiday weekend, causing a total operational loss of \$7,929. He apprised that the repairs were now complete, except for the surfacing work which included the final tamping and placement of stone.

Mr. Tennyson advised the washout had occurred along a section of rail owned by the Town of Corinth. He said once his Office had been advised of the washout he had sent members of the DPW Engineering

staff to the site to review the damages with SNCR staff to make sure the County was kept in the loop as far as the types of repairs being conducted. He said although the County had not been directly involved in making the repairs, they had maintained a review of those being completed and had also kept the Town of Corinth apprised of all of the work being done. Mr. Tennyson commented that SNCR had done a good job in addressing the washout and he said he had not identified any issues with the nature of the repairs.

Referring to the repair estimate documents provided, specifically the entry entitled "Car Billing from Canadian Pacific", Mr. Gonyo apprised SNCR had worked out an agreement with Canadian Pacific to use their side-dump cars at no cost other than to return them loaded. He said this agreement had worked in their favor because they had been able to re-load the cars at Tahawus, which was the first time this had happened since 1989, and it had also helped the company that had provided the stone to realize what type of loading procedures would be necessary to transport stone by rail in the future. Mr. Gonyo pointed out that the figure listed indicated it was the "actual (to date)" amount and he noted that there were still two outstanding invoices from the stone provider which would be added to the total once received, following which the revised amounts would be forwarded to Mr. Tennyson for his records.

Mr. Montesi questioned whether any other sales of stone from Tahawus had been made and Mr. Gonyo replied they were working with a firm in New York City on an arrangement to transport as much as 500,000 tons of stone next summer. He continued that so far that was the only possible deal they had but he said SNCR was working with Aggregates America, who held the exclusive rights for marketing of any stone to be shipped by rail, and that deal would ultimately be worked out between Aggregates American and National Lead.

Mr. Taylor noted it appeared the washout had occurred due to a blocked culvert and he asked if there was a program in place to make sure the culverts remained clear in order to avoid a reoccurrence of situations such as this. Mr. Gonyo replied that SNCR did have such a program in place, and he advised this issue had not been caused by a culvert that was already blocked, but rather flash flooding in the area which had caused a large amount of brush, branches and debris to block the culvert and cause the washout.

In response to a request made by Mr. Conover, Mr. Tennyson reminded the Committee members that the current Railroad Operator Agreement placed the obligation on SNCR to make repairs for damages up to \$50,000. He continued that in the event of a repair exceeding \$50,000, SNCR had the option of refraining from making repairs and instead seeking a partnership with the Town of Corinth and Warren County to make them. Mr. Tennyson commented that when he had been notified of the damages, there had been some initial concerns that the repair costs would exceed the \$50,000 threshold and this concern had prompted him to send his engineers to the site for review; he added that once the review was completed, the DPW Engineering staff had estimated a repair cost of less than \$50,000 and they had requested that SNCR provide their estimates to ensure this was the case. Mr. Tennyson concluded that at this point, neither the County nor the Town of Corinth had approved any repairs above the \$50,000 threshold and therefore he did not believe SNCR would have the option of requesting funding for the repairs. Mr. Conover then questioned whether the Railroad Operator Agreement included any language indicating that the definition of damages could include operational losses and Mr. Tennyson responded that he was unsure; Mr. Conover suggested this might be a section of the Contract that required clarification, based on this instance.

As a final note, Mr. Gonyo pointed out that the repair estimate and operational losses document did not include a total for Surfacing Crew work. He noted that SNCR had initially received a quote of \$15,000 from R.J. Corman to complete this work and he said they were currently seeking an alternate contractor located more closely to achieve a lower cost. Mr. Gonyo explained R.J. Corman maintained the appropriate equipment and manpower to be able to do this type of work at a moments notice,

although the associated costs were high based on this availability.

There being no further discussion on the washout repair issue, Mr. Gonyo proceeded with an update on SNCR operations. He reminded the Committee that SNCR had planned to hold two weekend events based around the Leviathan locomotive on September 7, 8, 14 & 15; however, he noted, due to permitting issues associated with the need to transport the locomotive by truck, the Leviathan could not be delivered until September 8<sup>th</sup>, forcing SNCR to cancel the first weekend of the event. Mr. Gonyo advised SNCR was considering having a private ride on the Leviathan for the press in order to raise more awareness of the event planned for September 14<sup>th</sup> and 15<sup>th</sup>, during the Teddy Roosevelt themed celebration. He apprised that SNCR had scheduled their Saratoga Dinner Trains which would operate on August 13<sup>th</sup>, 20<sup>th</sup>, and 27<sup>th</sup>, all Tuesdays coinciding with the days that the Saratoga Harness Track was closed. Mr. Gonyo advised SNCR was currently marketing the dinner trains and had already received 63 reservations. Finally, Mr. Gonyo reported that during the month of June SNCR had served 1,077 passengers, which was not bad considering they had only provided weekend services, and 1,500 during the month of July; he noted that the July figure was lower than anticipated and he said they attributed a portion of the decrease to the closure of services for five days while the washout repairs were being made.

With respect to freight operations, he advised the second test move from Bartons Mines would arrive in Reserve, LA later that night, following which they would coordinate with Bartons Mines to determine the results. He said the first test run had ended with a couple of bags being tipped over, amounting to about one pound of product lost, which was not a bad result. Mr. Gonyo continued that for their second test move, they had used a load out procedure developed by Canadian Pacific and they hoped to attain even better results to prevent future losses before beginning regular freight operations. He advised SNCR was working with their stone provider to stockpile about 1,000 tons of large stone, similar to that which was used in the washout repairs, and he advised these materials could be marketed to other railroads, particularly Canadian Pacific, to address future washout issues.

Mr. Gonyo reported that on July 31<sup>st</sup> SNCR management officials would be meeting with Canadian Pacific's Vice President of US operations in Minneapolis, MN to discuss operations in the northeast, primarily relating to freight operations. He said their last meeting was positive and, due to a change in Canadian Pacific Vice President, they were hoping this meeting would be positive, as well.

Mr. Conover asked if there had been many passengers traveling with bicycles and Mr. Gonyo replied there were not many.

A brief discussion ensued.

Concluding the agenda review, Mr. Tennyson addressed the Referrals section of the agenda, as follows:

- \* With regards to the conceptual plans submitted, and subsequently approved by the Committee, by The King's School for a pedestrian railroad crossing for access to athletic fields, Mr. Tennyson said The King's School had been notified of the approval and were proceeding to develop engineering plans. He added that once the plans were complete, they would return to the Committee to seek final approvals.
- \* Concerning the request from North Creek Woodworking for a conveyance of property in the Town of North Creek, Mr. Tennyson advised an appraisal had been performed by the Real Property Tax Services Office which was then forwarded on to the legal counsel for North Creek Wood Working; however, he stated, a response had not yet been received.
- \* Regarding damages to the Warren County Bike Trail caused by the use of the snowmobile trail groomer, Mr. Tennyson said inclement weather had prevented the work from being completed. He explained their plan was to begin the repair work on the following day, keeping that section of the Bike Trail closed throughout the resurfacing work, re-opening it

when it was safe to do so.

Mr. Conover noted that it had taken awhile to get the repairs started and he suggested that if this issue were to occur again, that the repairs be started more quickly, and earlier in the season. Mr. Bentley noted that they had intended to make the repairs in June, but because it had rained for the majority of the month, they had been unable to.

There being no further Parks, Recreation & Railroad business to address, Mr. Tennyson distributed copies of the DPW agenda to the Committee members, a copy of which is also on file with the meeting minutes.

Mr. Tennyson said the first agenda item pertained to the Fuel Report, which was included on page 1. He said that, as reported at the prior Committee meeting, they were under budget on fuel expenses and expected to achieve a budgetary savings at the end of 2013; however, he noted, this trend could change quickly in the event of inclement weather requiring DPW action. Mr. Tennyson commented that although he typically included an Overtime Report in the agenda, he had not done so this month because the report was not ready when the agenda was prepared.

Moving on, Mr. Tennyson advised the next four agenda items all pertained to the Crane Mountain Road over Mill Creek Bridge Project. He explained that since the original NYSDOT grant agreement for the project was approved, by Resolution No. 207 of 2013, State Marchiselli funding had been added. In order to address this issue, Mr. Tennyson advised Resolution No. 207 of 2013 would need to be rescinded in order to adjust the agreement. He pointed out that agenda page 4 included a request to rescind Resolution No. 207 of 2013, while agenda page 5 consisted of a request to amend the existing grant agreement with NYSDOT in an amount not to exceed \$991,000.

Motion was made by Mr. Montesi, seconded by Mrs. Wood and carried unanimously to approve both requests, as outlined above, and the necessary resolutions were authorized for the August 16<sup>th</sup> Board meeting. *Copies of both requests are on file with the meeting minutes.*

Agenda page 12, Mr. Tennyson explained, included a request to increase Capital Project No. H320.9550 280, Crane Mountain Road over Mill Creek Bridge, in the amount of \$114,750, while agenda page 13 included a request to amend the existing contract with Creighton Manning Engineering LLP for a total amount not to exceed \$203,000 to add construction inspection services.

Motion was made by Mr. Montesi, seconded by Mrs. Frasier and carried unanimously to approve the request to increase Capital Project No. H320.9550 280 for a total amount not to exceed \$203,000 and refer same to the Finance Committee. *A copy of the request is on file with the meeting minutes.*

Motion was made by Mr. Montesi, seconded by Mrs. Frasier and carried unanimously to approve the request to amend the existing contract with Creighton Manning Engineering LLP, as outlined above, and the necessary resolution was authorized for the August 16<sup>th</sup> Board meeting. *A copy of the request is on file with the meeting minutes.*

Continuing to agenda page 16, Mr. Tennyson presented a request to amend the existing contract with Greenman-Pedersen, Inc. in an amount not to exceed \$289,235 to include Supplemental Agreement No. 3 for the Hicks Road (CR 52) Reconstruction Project to add construction inspection services. He noted that the additional funding for this work was included in the existing grant agreement and he said he expected the Hicks Road Reconstruction Project to proceed to construction in the upcoming fall season.

Motion was made by Mr. Taylor, seconded by Mrs. Wood and carried unanimously to approve the request, as outlined above, and the necessary resolution was authorized for the August 16<sup>th</sup> Board

meeting. *A copy of the request is on file with the meeting minutes.*

Agenda page 19, Mr. Tennyson advised, included a request to authorize the sale of a Fruehauf box trailer to the Town of Warrensburg for the sum of \$1,000. He noted that the trailer had been used to transport bailed recycled materials, but was not currently being used for anything. Chairman Geraghty advised the trailer would actually be sold to the Warrensburg Volunteer Fire Company, not the Town of Warrensburg.

Motion was made by Mr. Conover, seconded by Mrs. Frasier and carried unanimously to approve the request, as outlined above, and forward same to the Finance Committee. *A copy of the request is on file with the meeting minutes.*

Mr. Tennyson directed the Committee members to agenda page 20, which included a listing of proposed road maintenance projects on which additional CHIPS (Consolidated Highway Improvement Project) funds in the amount of \$136,000 could be expended. He commented that there were far more projects listed than they had funding for and he noted that the three projects with asterisks were those with safety concerns. A discussion about the list followed.

Motion was made by Mrs. Wood, seconded by Mr. Mason and carried unanimously to amend the County Budget to create three new County Road Projects (*D.5112.8193 280, CR19 Olmsteadville Road, in the amount of \$24,000; D.5112.8194 280, CR12 Hadley Road, in the amount of \$33,300; and D.5112.8195 280, CR60 Harrington Hill Road, in the amount of \$78,700*) and refer same to the Finance Committee. *A copy of the request is on file with the meeting minutes.*

Continuing the agenda review, Mr. Tennyson announced that agenda page 21 reflected preliminary estimates for construction of a parking lane on West Brook Road, as well as those for installation of curbing along the same section of roadway. He reminded the Committee of prior discussion wherein Mr. Dickinson had noted the Town of Lake George was very interested in constructing a parking lane and collecting parking revenues; however, he noted, the Town had refrained from proceeding with the parking lane construction based on the possibility that the conservation easement associated with the adjacent Charles R. Wood Park (*formerly known as the Gaslight Village Property*) would require any parking revenues collected to be dedicated for maintenance of the Park. Mr. Tennyson apprised that following review of the conservation easement language, both Martin Auffredou, County Attorney, and the legal counsel for the Town of Lake George had reached independent, but consistent, opinions that the Town would not be obligated to remit the parking revenues collected for park maintenance. Mr. Dickinson confirmed this was his understanding, as well; additionally, he noted that the Town of Lake George was interested in constructing the parking lane and would like to proceed with the work as quickly as possible.

Mr. Montesi questioned who would be responsible for the costs of the parking lane construction, and Mr. Tennyson responded that would be the Town of Lake George; he added that the Town would seek a permit to use County-owned right-of-way for the construction and the County would coordinate with the Town for inspection to make sure the construction was being done correctly.

A review of the projected construction estimates ensued, following which a motion was made by Mr. Dickinson, seconded by Mr. Mason and carried unanimously to indicate that the Committee had no objection to the Town of Lake George proceeding with the parking lane construction on West Brook Road.

Mr. Mason pointed out that the curb installation portion of the estimate included the cost of installing curbing on both sides of West Brook Road and he questioned whether the County would still seek to

install the curb on the opposite side of the road from the proposed parking lane. Mr. Tennyson responded that he did not have the funding available in his existing budget, but said they could possibly use any leftover CHIPS funding or new grant monies to address these costs.

The next agenda item, Mr. Tennyson advised, called for an update on the Grist Mill Bridge Pile Takedown issue. He explained that the Grist Mill Bridge replacement project had been completed in the Town of Stony Creek a few years ago using Federal Stimulus monies, which had led to more federal inspections than normal. During these inspections, which had begun in 2008, he said inconsistencies with documentation regarding the origin of some steel pile casings had been identified; Mr. Tennyson clarified that, essentially, this documentation was supposed to indicate that the casings were made in the USA. He said they had immediately notified the contractor and withheld funding until the issue was resolved between the contractor and sub-contractor. Mr. Tennyson advised it was determined the casings were made in the USA and they had worked with the Federal Highway Administration through the rest of the summer and fall of 2008 to revise this documentation issue, leading to an indication from the Federal Highway Administration in October of 2008 that the documentation was sufficient and approval was provided to proceed with payment to the contractor. Mr. Tennyson further advised that late in the summer of 2009, notification was received from the Federal Highway Administration that because the documentation initially received was insufficient, they intended to perform what they called a "takedown" where they would withhold grant reimbursement for a portion of the project, which was supposed to be 100% Federally funded. He noted that this issue caused a problem for the County because they had already paid for the work in 2008 after the Federal Highway Administration had approved the casing documentation.

Since 2009, Mr. Tennyson advised they had been communicating in writing with the Federal Highway Administration, expressing their displeasure with the lack of grant reimbursements. He stated that so far, the only option the County had to recoup the monies paid would be to consider litigation against the contractor. Mr. Tennyson stated that meetings had been planned with elected officials to address this matter, but they had been cancelled by the Federal Highway Administration, making this a very challenging issue to resolve. He said he had finally been successful in scheduling a meeting in May of 2013, during which the Federal Highway Administration requested additional information supporting that the County had withheld funding from the contractor, based on the Federal Highway Administration's concerns, until authorization was provided to proceed. Mr. Tennyson advised he had forwarded the requested information to the Federal Highway Administration in the beginning of July and had followed up with the representative by phone on Friday, July 26<sup>th</sup>, at which time the representative had indicated that he believed he had been provided with all of the information he required, but would not provide any indication as to what his determination would be. Mr. Tennyson said he expected to receive a response sometime during the following week. He cautioned that the primary issue in this situation was that the grant funding was being retracted in September of 2013 and if reimbursement authorization was not provided prior to that time, the County would never receive reimbursement for the work. Mr. Tennyson advised that if he received a response on the Federal Highway Administration's decision prior to the upcoming Finance Committee meeting he would report on the matter then, or if not, at the next Board meeting. He concluded that if the response was not in the County's favor, they may want to engage their Federally elected officials for assistance.

Mr. Montesi questioned the amount of grant reimbursement withheld and Mr. Tennyson reported that it was approximately \$29,000. Mr. Mason questioned whether they should proceed in engaging their political representatives while awaiting a response and Mr. Tennyson responded that he preferred to wait for a response from his contact at the Federal Highway Administration before taking this step. Mr. Conover suggested that Mr. Tennyson begin drafting a letter that could be sent by the Chairman of the Board to the County's elected officials if the answer received was not in the County's favor.

Mr. Tennyson pointed out that agenda page 22 included a document entitled "Warren County DPW Safety Program: 2013", outlining the practices employed through this program, which he proceeded to review for the Committees benefit.

Moving on to agenda page 23, Mr. Tennyson presented a request for authorization for himself and Kevin Hajos, Deputy Superintendent of Public Works, to attend the 2013 Summer Highway & Bridge Professional Development Program in Lake Placid, NY on August 26 & 27, 2013.

Motion was made by Mr. Conover, seconded by Mr. Dickinson and carried unanimously to approve the aforementioned travel request. *A copy of the Authorization to Attend Meeting or Convention form is on file with the meeting minutes.*

Mr. Tennyson said agenda page 26 included a request for a transfer of funds in the amount of \$3,000 from Code A.7111 110, Up Yonda Farms-Salaries-Regular, to Code A.7111 130, Up Yonda Farms-Salaries-Part Time. He reminded the Committee members that due to a resignation, Up Yonda was short staffed and therefore a part-time position had been incorporated until a more permanent staffing solution was determined. Mr. Tennyson apprised he would return to a future Committee meeting to address the staffing needs of the facility and he noted that although the Up Yonda Trust had been in a steady decline for a number of years, it appeared there would be an increase this year.

Motion was made by Mr. Conover, seconded by Mrs. Wood and carried unanimously to approve the request for a transfer of funds, as outlined above, and refer same to the Finance Committee. *A copy of the Request for Transfer of Funds form is on file with the meeting minutes.*

The next agenda item referred to Items of Interest, which were outlined as follows:

- \* Hicks Road Reconstruction Project -
- \* Crane Mt. Road Bridge Replacement - Mr. Hajos advised both the Hicks Road Reconstruction and Crane Mt. Road Bridge Replacement projects were Federal Aid Projects for which bid openings would be held over the next two weeks. He said they expected the Hicks Road Reconstruction Project to proceed to construction during the upcoming fall season.
- \* Blair Rd Bridge Replacement - The preliminary engineering work for this project was just beginning and Mr. Hajos said he anticipated the construction would begin in the fall of 2014.

Concluding the agenda review, Mr. Tennyson addressed the Referrals section. He said there was only one referral to note, pertaining to construction of a parking lane and/or curbing along West Brook Road, which had been discussed earlier in the meeting.

Chairman Geraghty commented that they had experienced some issues in the Town of Warrensburg to which DPW staff had responded and he commended them for doing such a great job.

There being no further business to come before the Public Works Committee, on motion made by Mr. Dickinson and seconded by Mr. Conover, Mr. Bentley adjourned the meeting at 10:44 a.m.

Respectfully submitted,  
Amanda Allen, Deputy Clerk of the Board